

A RESOLUTION

21-735

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 20, 2016

To declare the existence of an emergency with respect to the need to authorize the disposition of District-owned real property located at 4470 Q Street, N.W. (also known as 4470 Foxhall Road, N.W.), most commonly known as the Hardy School and more specifically designated for tax and assessment purposes as Lot 0980 in Square 1363.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Hardy School Disposition and Lease Authorization Emergency Declaration Resolution of 2016”.

Sec. 2. (a) The Lab School of Washington (the “LSW”) has been providing a rigorous, best-in-class, college-preparatory education for students with learning differences in the District of Columbia for 50 years. Nearly 90% of LSW graduates attend a college or a university after graduating.

(b) The LSW is a national and international model for the dissemination of information about learning disabilities and the development of effective strategies for educating children with learning disabilities. The United States Department of State routinely sponsors delegations of international educators to visit the LSW and learn from the school’s educators. Recent delegations have visited from England, Germany, Australia, France, Switzerland, and Saudi Arabia. The LSW is also an active participant in an initiative of the U.S. Congressional Dyslexia Caucus to raise awareness of learning disabilities.

(c) Despite its international reputation, the LSW has always been dedicated to the District and its families. The school is an irreplaceable component of the District’s public special education system. It is certified by the Office of the State Superintendent of Education as a non-public school that can serve District public school students who meet the criteria of need. In fact, nearly a quarter of all LSW students, including 97 this academic year, are District of Columbia Public Schools (“DCPS”) children.

(d) Over the years, despite recent efforts, the District’s traditional public school system has struggled to provide adequate services to students with learning differences. As a result, many District families have turned to the LSW, and its innovative arts-infused curriculum, to help their children overcome difficulties in reading, spelling, writing, and math and to prepare them for rewarding college and career choices. A 2013 analysis performed by the Mayor found

that the traditional public school system would not otherwise be capable of serving the students of the LSW.

(e) In response to the LSW's efforts to meet the needs of more children, it acquired the ground lease of the Hardy School building ("Hardy School"), located at 4470 Q Street, N.W., in 2007.

(f) The Hardy School currently serves 80 students in the LSW's elementary program. The LSW's lease of the Hardy School is indispensable to its ability to educate students with learning differences in small class settings, and provides needed separation for children in grades 1-4 and those in grades 5-12. The lease on the Hardy School will expire in December 2023, which does not provide sufficient long-term security for the LSW to make critical renovations to the facility.

(g) While the Hardy School is well-suited for the LSW's unique needs, like all real estate, it needs continued investment. Immediate investment needs include replacing the school's HVAC system, original windows, and making the building ADA compliant. The estimated cost of these renovations is \$2 million.

(h) The LSW would like to make these and other upgrades to the facility, at its own expense, but cannot without the guarantee of a long-term presence at the location. The issues associated with the LSW's inability to invest in these upgrades grow more significant with each passing year.

(i) In addition, the uncertainty surrounding its future at the Hardy School has stymied long-planned improvements at the LSW's main campus on 4759 Reservoir Road, N.W. That campus currently lacks the space to accommodate additional programmatic opportunities for older students, such as additional theatre and performance space. Thus, in order to invest additional funds in the entire school and to expand student amenities for all students, the LSW will need to shift certain student facilities to the Hardy School location. This is not feasible without the ability to lease the school over a longer term.

(j) The issue of the LSW's lease of the Hardy School is not new. Between 2011 and 2013, the District invested significant time and resources in negotiating a new, 50-year lease of the property with the LSW. This lengthy process required the District and the LSW to dedicate enormous time, effort, and financial resources to securing a new lease.

(k) A brief history of efforts undertaken during that negotiation include:

(1) On April 25, 2012, the Department of General Services ("DGS") commissioned an independent appraisal of the Hardy School pursuant to section 1(b-1)(3) of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801(b-1)(3)) ("Act").

(2) On March 28, 2013, the District notified Advisory Neighborhood Commission ("ANC") 3D that the Hardy School had been declared surplus and informed the ANC of the time and date of the community meeting to discuss this surplus designation.

(3) On April 5, 2013, the District published notice of its public meeting to receive comments on the proposed surplus of the Hardy School in the D.C. Register.

(4) On April 30, 2013, DGS conducted the public meeting. According to DGS's public testimony from October 2013, "Thirty-two residents attended, and the majority of comments were in support of Lab and the educational services they provide."

(5) Subsequent to the hearing, the District performed a surplus analysis pursuant to section 1(a-1)(2) of the Act (D.C. Official Code § 10-801(a-1)(2)), which concluded: "The most viable option and reasonable future use of the Property is continued use as an educational facility for the LSW. . . . Because of the small size and footprint the Property is not well suited for a DCPS site. Moreover, the students that are currently being served by the LSW cannot be transferred to a traditional public school and will be displaced . . . . This is the best use of the property."

(6) Pursuant to section 1(b-1)(1) of the Act (D.C. Official Code § 10-801(b-1)(1)), the District also performed an analysis of economic factors considered in the disposition of the Hardy School, concluding that, "the specific economic and social benefits of the lease outweigh the benefits of retaining this property in the District's inventory."

(7) In June 2013, the District and the LSW executed a Letter of Intent ("LOI") to "propose the terms and conditions under which the District of Columbia would enter into a lease for the Premises." The terms of the new lease specified in the LOI include a ground-lease of the property for an initial term of 25 years with one 25-year option. The base rent is specified as \$16.50 per rentable square foot with an annual rent increase of 2%. Due to the LSW's unique requirement of small class sizes, however, the District included a landlord's concession for operation expenses of \$10 per rentable square foot during the first term of the lease.

(8) On September 27, 2013, the Mayor transmitted PR20-475, the Hardy School Surplus Declaration Resolution of 2013, and PR20-476, the Hardy School Lease Approval Resolution of 2013, to the Council.

(9) On October 22, 2013, the Committee on Government Operations and the Committee on Economic Development held a Joint Public Roundtable on PR20-475 and PR20-476.

(110) On October 29, 2013, the Committee on Economic Development marked up and unanimously voted to approve PR20-476.

(11) On October 30, 2013, the Committee on Government Operations marked up and unanimously voted to approve PR20-475.

(12) On November 21, 2013, DGS commissioned a second independent appraisal of the Hardy School pursuant to section 1(b-1)(3) of the Act (D.C. Official Code § 10-80(b-1)(3)).

(13) On December 16, 2013, the Mayor withdrew PR20-475 and PR20-476.

(l) In August 2014, the District completed the first revision to its public school boundaries in more than 40 years. The process, which took 10 months and was overseen by a 22-member Advisory Committee on Student Assignment, included an exhaustive analysis of future public school facility needs. The final recommendations presented to the Mayor did not propose reopening the Hardy School as a DCPS school in the future.

**ENROLLED ORIGINAL**

(m) On June 21, 2014, the Comprehensive Planning and Utilization of School Facilities Act of 2013 (D.C. Law 20-114; D.C. Official Code § 38-1802.09) became effective. This law added requirements and procedures for the disposition of public school properties in addition to the existing requirements outlined in section 1 of the Act (D.C. Official Code § 10-801).

(n) Requiring the District and the LSW to repeat the entire disposition process again in order to execute a new lease of the Hardy School would constitute an unnecessary expenditure of both the District's and the LSW's resources and time.

(o) The leasing of this property to the LSW has been closely scrutinized by the community, the Mayor, and the Council in the past. As a result, it is in the best interests of the District to authorize the disposition of the Hardy School through a new, long-term ground-lease with the LSW in order to accelerate the long-needed physical improvements to the school for the benefit of current and future students.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Hardy School Disposition and Lease Authorization Emergency Amendment Act of 2016 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.